
Environmental Health Committee

HB 2150

Brief Description: Ensuring cleanup of certain hazardous waste facilities.

Sponsors: Representatives Chase, Dunshee and White.

Brief Summary of Bill

- Prohibits permitting of additional hazardous waste disposal at sites that are significantly out of compliance with the state's Hazardous Waste Management Act until the sites comply with cleanup requirements.

Hearing Date: 2/19/09

Staff: Pam Madson (786-7111)

Background:

The Hanford Nuclear Reservation is one of the largest sites in the country for treatment, storage, and disposal of radioactive and non-radioactive hazardous waste.

In 1989 the state Department of Ecology (DOE) and the U. S. Environmental Protection Agency (EPA) entered into what is known as the Tri-Party Agreement to bring Hanford into compliance with state and federal environmental laws. The agreement set deadlines for treating and removing radioactive and hazardous waste from underground storage tanks.

Hazardous waste is regulated by federal and state agencies. Under the federal Resource Conservation and Recovery Act, states may apply for authorization to operate a state hazardous waste program rather than the federal program. Washington has received authorization to operate a state program and does so under the Hazardous Waste Management Act (HWMA). Hazardous waste is defined as including substances composed of both radioactive and hazardous components.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Radioactive waste is federally regulated under the Atomic Energy Act. Radioactive waste and non-radioactive waste can be mixed together resulting in "mixed waste". State and federal rules indicate that mixed waste is subject to dual regulation.

Voters passed Initiative 297 in 2004. Initiative 297 sought to require cleanup of current waste sites before additional radioactive and hazardous waste is sent to the sites. It specifically dealt with mixed waste and the regulation of both the radioactive and the nonradioactive components. The law was challenged by the federal government and the 9th Circuit Court of Appeals in 2008 ruled that the state law is preempted by federal law. Federal law retains sole authority to regulate nuclear waste and any attempt to regulate the radioactive component of mixed waste is preempted by the Atomic Energy Act. Additionally, any requirement to clean up a site before new off-site waste can be delivered for disposal affects the ability of the federal government to manage radioactive waste by closing the Hanford site to receipt of additional off-site waste until cleanup is completed.

Washington has recently filed suit against the federal government to enforce the Tri-Party Agreement, which addresses cleanup of sites and facilities at Hanford. The milestones in the agreement are significantly out of compliance. The lawsuit seeks to establish and enforce specific deadlines for emptying single-shell storage tanks and treating millions of gallons of hazardous and radioactive waste in all underground tanks at the Hanford site.

Summary of Bill:

The Legislature finds that some hazardous waste facilities in Washington located on sites listed as Superfund sites by the EPA are in significant noncompliance with requirements of federal and state law. Disposing of additional hazardous waste at units that have not completed cleanup requirements is likely to slow the cleanup, use capacity necessary for disposal of waste from the disposal site itself, add to the cumulative impact from the site, and increase the amount of cleanup required.

It is state policy to ensure cleanup and compliance at facilities with large releases of hazardous substances where hazardous waste management units are in significant noncompliance with the state's HWMA before permitting the disposal of additional hazardous waste not generated from cleanup of the site. It is also state policy to ensure prompt cleanup of releases of hazardous waste and ensure timely development of treatment and disposal capacity for waste currently stored in tank systems awaiting disposal.

The DOE may not permit disposal of hazardous waste at the Hanford reservation where a hazardous waste management unit is in significant noncompliance with the HWMA, and the hazardous waste is not generated from cleanup, corrective, or remedial action under the state HWMA or the federal Comprehensive Environmental Response, Compensation, and Liability Act at the facility or site.

This bill does not affect the Tri-Party Agreement, currently permitted disposal of hazardous waste, or exemptions or exclusions from hazardous waste permitting allowed by DOE rules. The DOE may grant waivers for de minimus quantities of hazardous waste under certain conditions.

This bill is intended to operate within the scope of the state's regulatory authority over hazardous waste.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.